

SB1180, SD2

Testimony

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# A BILL FOR AN ACT

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RELATING TO METROPOLITAN PLANNING ORGANIZATIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               "CHAPTER

5                               METROPOLITAN PLANNING ORGANIZATIONS

6       §   -1   Statement of purpose. The legislature finds that  
7 23 United States Code sections 134-135 and 49 United States Code  
8 sections 5303-5304, as amended, and federal regulations adopted  
9 pursuant thereto, and other federal laws require that  
10 metropolitan planning organizations be designated based on a  
11 minimum population threshold as defined in federal law to act as  
12 a decision-making agency and to receive certain funds for the  
13 purpose of carrying out a continuing, cooperative, and  
14 comprehensive transportation planning process.

15       Metropolitan planning organizations have their own policy  
16 board and staff. It is the responsibility of the policy board  
17 to make decisions that are the result of the continuing,  
18 cooperative, and comprehensive transportation planning process,



1 and the organization's staff support and provide technical  
2 resources to the policy board. The continuing, cooperative, and  
3 comprehensive planning process is designed to provide both  
4 orderly and reasoned metropolitan transportation planning within  
5 the framework of federal law, and adequate and informed  
6 representation from state and county governments, operators of  
7 public transportation receiving federal funds, the public at  
8 large, and others as identified in 23 Code of Federal  
9 Regulations section 450 subpart C.

10 § -2 **Definitions.** For purposes of this chapter:

11 "Comprehensive agreement" means the executed agreement  
12 between the member jurisdictions or authorities of a  
13 metropolitan planning organization concerning the organization  
14 and structure of the metropolitan planning organization, the  
15 roles and responsibilities of its member jurisdictions or  
16 authorities, and the provision of funding and membership dues.

17 "Employees" means an executive director of a metropolitan  
18 planning organization, and all staff of a metropolitan planning  
19 organization.

20 "Member jurisdiction or authority" means a local or state  
21 jurisdiction or a local or regional authority that has entered



1 into a comprehensive agreement to support the metropolitan  
2 planning process and that is provided representation on the  
3 metropolitan planning organization's policy board.

4 "Metropolitan planning organization" means a metropolitan  
5 planning organization designated or redesignated under 23 United  
6 States Code section 134, as amended.

7 "Policy board" means the policy decision-making body of a  
8 metropolitan planning organization.

9 "Transportation management area" means a transportation  
10 management area identified and designated pursuant to 23 United  
11 States Code section 134, as amended.

12 **§ -3 Establishment of metropolitan planning**

13 **organizations; duties.** (a) Metropolitan planning organizations  
14 shall be designated pursuant to 23 United States Code section  
15 134(d)(1) and shall meet all requirements of 23 United States  
16 Code sections 134-135 and 49 United States Code sections 5303-  
17 5304, as amended, and any federal regulations adopted pursuant  
18 thereto.

19 (b) A metropolitan planning organization shall:

20 (1) Operate according to executed comprehensive  
21 agreements, including any supplemental agreements,



1 between the State, county, and other operators of  
2 public transportation receiving federal funds; and

- 3 (2) Facilitate and support the continuing, cooperative,  
4 and comprehensive transportation planning process  
5 between the State, county, and other operators of  
6 public transportation receiving federal funds,  
7 including the consideration of projects and strategies  
8 that support national planning factors as defined in  
9 23 United States Code section 134, regional goals and  
10 objectives, and consideration of plans and planning  
11 activities of others as they affect transportation.

12 (c) A metropolitan planning organization may:

- 13 (1) Assign to staff members duties not defined or  
14 designated by federal law, this chapter, or executive  
15 agreement;

- 16 (2) Enter into agreements with the State, county, other  
17 operators of public transportation receiving federal  
18 funds, and other entities as needed to fully comply  
19 with all requirements of federal law and this chapter;

- 20 (3) Be placed within a state or county agency, as  
21 appropriate, for administrative purposes only;



- 1 (4) Contract to purchase goods and services, including  
2 professional and technical assistance and advice;  
3 (5) Contract for or accept revenues, compensation,  
4 proceeds, and gifts or donations or grants in any form  
5 from any public agency;  
6 (6) Establish banking accounts with federally regulated  
7 financial institutions; and  
8 (7) Contract with other state or local agencies and quasi-  
9 public or private organizations for the use of their  
10 staff resources to assist the metropolitan planning  
11 organization in its functions.

12 § -4 **Transportation management area metropolitan**  
13 **planning organizations.** (a) Pursuant to 23 United States Code  
14 section 134(k), a metropolitan planning organization serving an  
15 urban area with a population of 200,000 or more shall be  
16 designated a transportation management area.

17 (b) Transportation management area metropolitan planning  
18 organizations shall be attached to the department of  
19 transportation for administrative purposes only. The various  
20 roles and responsibilities of transportation management area  
21 metropolitan planning organizations and the department of



1 transportation regarding the administration of the  
2 transportation management area metropolitan planning  
3 organization may be further defined by agreement between the two  
4 entities.

5 (c) This chapter shall apply to transportation management  
6 area metropolitan planning organizations.

7 (d) Notwithstanding any law to the contrary,  
8 transportation management area metropolitan planning  
9 organizations shall be exempt from section 26-35, except  
10 subsections (a) (7) and (8), and (b).

11 **§ -5 Metropolitan planning organization revolving funds.**

12 (a) There is established in the state treasury a metropolitan  
13 planning organization revolving fund for each metropolitan  
14 planning organization in accordance with federal law into which  
15 shall be deposited:

16 (1) All revenues from the operations of the Oahu  
17 metropolitan planning organization;

18 (2) Appropriations by the legislature out of the state  
19 highway fund to the metropolitan planning organization  
20 revolving fund;

21 (3) Federal funds or grants; and



(4) Gifts, grants, and any other moneys made available to the fund.

(b) Moneys in the metropolitan planning organization revolving fund for each metropolitan planning organization shall be expended by the applicable metropolitan planning organization for purposes of transportation planning in accordance with federal law; provided that, notwithstanding any law to the contrary, the metropolitan planning organization for a particular county may expend moneys from their respective revolving fund without necessity of an appropriation; provided further that each metropolitan planning organization having a revolving fund shall report annually to the legislature no later than twenty days prior to the convening of each regular session starting with the regular session of 2016 on a detailed accounting of the activities of their respective revolving fund for the previous year.

**§ -6 Metropolitan planning organization policy boards; membership and meetings.** (a) Policy board membership shall be established by comprehensive agreement, including any applicable supplemental agreements and bylaws.





1 (b) As appropriate, any agreement or committee bylaws that  
2 establish policy board membership may also include  
3 specifications regarding ex-officio membership, terms and term  
4 limits of members, member alternates, quorum, and other  
5 considerations as permitted by law.

6 § -7 **Staff and funding.** (a) Each policy board shall  
7 appoint a full-time executive director of the metropolitan  
8 planning organization who shall be independent of state and  
9 county agencies. Duties of the executive director may be  
10 established by the policy board or in the comprehensive  
11 agreement.

12 (b) A policy board may employ staff as needed. The  
13 executive director shall be responsible for the hiring and  
14 management of staff. The executive director and staff for a  
15 metropolitan planning organization shall not be subject to  
16 chapter 76. All other benefits generally applicable to the  
17 officers and employees of the State shall apply to staff members  
18 of the metropolitan planning organization and be retroactive to  
19 the effective date of initial hiring for existing staff.

20 (c) All employees of a metropolitan planning organization  
21 shall be exempt from chapter 76 but shall be eligible to receive



1 the benefits of any state or federal employee benefit program  
2 generally applicable to officers and employees of the State.

3       §   -8 **Member financial dues.** (a) The policy board shall  
4 identify and establish, by interagency agreement, the member  
5 financial dues necessary to sustain the metropolitan planning  
6 organization. The annual member financial dues amount shall be  
7 reviewed at least every three years.

8       (b) Member financial dues paid to a metropolitan planning  
9 organization by its member jurisdictions or authorities for  
10 purposes of matching federal aid financing shall not lapse or  
11 expire.

12       (c) Notwithstanding any provision to the contrary, member  
13 financial dues charged to the State may be paid from the state  
14 highway fund.

15       (d) Member financial dues received by a metropolitan  
16 planning organization shall not be specific to or intended to  
17 fund individual elements of any unified planning work program.

18       (e) A policy board may allocate collective financial  
19 resources to fund a unified planning work program.



1       §   -9 Meetings. (a) Notwithstanding any law to the  
2 contrary, meetings of policy boards, advisory committees, or  
3 subcommittees shall be subject to sections 92-3 through 92-13.

4       (b) Members of a policy board shall be exempt from section  
5 92-2.5.

6       (c) Members of a policy board who are also members of  
7 another state board may meet at a duly noticed meeting of a  
8 policy board.

9       (d) A majority of the membership of a policy board or  
10 committee of a policy board shall constitute a quorum to do  
11 business.

12       §   -10 Conflict between laws. If a conflict between any  
13 provision of this chapter and any federal law or regulation  
14 relating to metropolitan planning organizations arises, federal  
15 law or regulation shall govern."

16       SECTION 2. Section 279A-8, Hawaii Revised Statutes, is  
17 amended to read as follows:

18       "~~[+]§279A-8 [Oahu] Metropolitan [Planning Organization;]~~  
19 planning organization; effect on funding.~~[+]~~ The provisions of  
20 this chapter do not affect the entitlement of the ~~[Metropolitan~~  
21 ~~Planning Organization]~~ metropolitan planning organization for



1 ~~[the island of Oahu]~~ any county to unconditionally receive and  
2 administer transportation planning funds pursuant to ~~[Section~~  
3 ~~112 of the Federal Aid Highway Act of 1973.]~~ 23 United States  
4 Code section 134, as amended."

5 SECTION 3. Chapter 279E, Hawaii Revised Statutes, is  
6 repealed.

7 SECTION 4. There is appropriated out of the state highway  
8 fund the sum of \$ or so much thereof as may be  
9 necessary for fiscal year 2015-2016 and the same sum or so much  
10 thereof as may be necessary for fiscal year 2016-2017 to be  
11 deposited into the metropolitan planning organization revolving  
12 fund.

13 SECTION 5. There is appropriated out of the metropolitan  
14 planning organization revolving fund the sum of \$ or  
15 so much thereof as may be necessary for fiscal year 2015-2016  
16 and the same sum or so much thereof as may be necessary for  
17 fiscal year 2016-2017 for the purposes of this Act.

18 The sums appropriated shall be expended by the department  
19 of transportation for the purposes of this Act.



1       SECTION 6. No officer or employee affected by this Act  
2 shall suffer any loss of employment, seniority, benefit, leave,  
3 service credit, or other emolument as a consequence of this Act.

4       SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6       SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

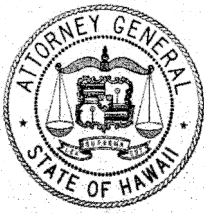
Metropolitan Planning Organizations

**Description:**

Creates a new chapter in HRS relating to metropolitan planning organizations. Repeals chapter 279E, HRS. Appropriates funds. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*





## **TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

**S.B. NO. 1180, S.D. 2 RELATING TO METROPOLITAN PLANNING ORGANIZATIONS.**

**BEFORE THE:**

**HOUSE COMMITTEE ON TRANSPORTATION**

**DATE:** Wednesday, March 25, 2015

**TIME:** 10:30 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Michael Q.Y. Lau, Deputy Attorney General

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Chair Aquino and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The purpose of the bill is to bring state law regarding metropolitan planning organizations ("MPO") into compliance with federal law. The Federal Highway Administration and Federal Transit Administration conducted a certification review of the Oahu Metropolitan Planning Organization in 2014 (the "Certification Review"). The Certification Review recommended certain corrective actions, including amending chapter 279E, Hawaii Revised Statutes, to comply with federal laws applicable to MPOs. The failure to comply with such actions could result in the loss of federal funds. The corrective actions, however, did not require that MPOs be allowed to spend money without an appropriation.

Section 5(b) of this bill, page 7, lines 8-10, governing MPOs' revolving funds provides in part that "notwithstanding any law to the contrary, the metropolitan planning organization for a particular county may expend moneys from their respective revolving fund without necessity of an appropriation;". This provision violates article VII, section 5, of the Hawaii Constitution, which provides that "[n]o public money shall be expended except pursuant to appropriations made by law." Accordingly, the portion of the bill exempting MPOs from the necessity of an appropriation should be deleted.

Thank you for the opportunity to comment on this bill.

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON TRANSPORTATION  
ON  
SENATE BILL NO. 1180, S.D. 2

March 25, 2015

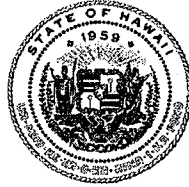
RELATING TO METROPOLITAN PLANNING ORGANIZATIONS

Senate Bill No. 1180, S.D. 2, proposes to create a new chapter relating to metropolitan planning organization in lieu of the existing Chapter 279E, HRS, which is being repealed. The bill also establishes within the State treasury the "Oahu Metropolitan Planning Organization Revolving Fund" into which shall be deposited: 1) federal funds or grants; 2) all revenues from the operations of the Oahu Metropolitan Planning; 3) appropriations by the Legislature to the fund; and 4) gifts grants and any other moneys available to the fund. It is noted that the bill currently contains an unspecified appropriation from the State Highway Fund to the Oahu Metropolitan Planning Organization Revolving Fund and an unspecified appropriation from the revolving fund. Moneys in the revolving fund are to be used to pay for the operations of the Oahu Metropolitan Planning Organization.

While the Department of Budget and Finance (B&F) does not take any position on the metropolitan planning organization operations, as a matter of general policy, the department does not support the creation of revolving funds which do not meet the requirements of Section 37-52.4, HRS. Revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining.



In regards to Senate Bill No. 1180, S.D. 2, it is difficult to determine whether the revolving fund will be self-sustaining.



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 26, 2015  
1:00 p.m.  
State Capitol, Room 221

**S.B. 1180 S.D. 1  
RELATING TO METROPOLITAN PLANNING ORGANIZATIONS**

**Senate Committee on Ways and Means**

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The Department of Transportation (DOT) in strong support of the intent of this bill as it takes steps to address federal corrective actions to allow the Oahu Metropolitan Planning Organization (OahuMPO) to maintain its federal certification as the metropolitan planning organization for Oahu. However, we still have concerns with the bill and recommend the amendments explained below.

The DOT still has concerns with the financial elements proposed by the bill. These are not part of the federal corrective actions outlined in the Transportation Metropolitan Area Certification Review, Final Report, 9/26/14. The DOT's concerns include:

- **Section 1, Item 3(c)(6)** allows the OahuMPO to establish banking accounts with federally regulated financial institutions. The DOT recommends deleting this language from the bill since it may conflict with our comment on Section 1, Item 5 and the administrative assignment responsibilities.
- The DOT recommends **Section 1, Item 5** be clarified regarding the term "seed funding" and to provide for administrative assignment responsibilities. The DOT suggests using the existing language from the third paragraph of HRS 279E-5 and updating it as appropriate, such as establishing a revolving fund of \$500,000. HRS 279E-5, "There is established in the state treasury for the department of transportation a revolving fund of \$30,000 to be known as the OMPO revolving fund which shall be administered by the director of transportation. The moneys in the fund shall be appropriated from the highway fund, and may be expended by the Oahu Metropolitan Planning Organization for its operation. The OMPO revolving fund shall be replenished when OMPO receives reimbursements from federal agencies."
- The DOT recommends removal of text (indicated in strikethrough) in **Section 1, Item 5(b)** of the bill since it is unclear and conflicts with the administrative assignment responsibilities. Section 1, Item 5(b) states that "Moneys in the metropolitan

planning organization revolving fund for each metropolitan planning organization shall be expended by the applicable metropolitan planning organization for the purposes of transportation planning in accordance with federal law; ~~provided that, notwithstanding any law to the contrary, the metropolitan planning organization for a particular county may expend moneys from their respective revolving fund without necessity of an appropriation; provided further that each metropolitan planning organization having a revolving fund shall report annually to the legislature no later than twenty days prior to the convening of each regular session starting with the regular session of 2016 on a detailed accounting of the activities of their respective revolving fund for the previous year.~~

- To ensure there are no conflicts with the administrative assignment responsibilities, the DOT recommends that the underlined text be added to **Section 1, Item 7(a)**, "Each policy board shall appoint a full-time executive director of the metropolitan planning organization who shall be independent of state and county agencies, notwithstanding any law to the contrary."
- **Section 1, Item 8(b)** states "Member financial dues paid to a metropolitan planning organization by its member jurisdictions or authorities for purposes of matching federal aid financing shall not lapse or expire." Currently, financial dues are provided as the matching funds to the federal aid funds in an approved work program, and do not lapse. The DOT recommends that this language is not needed; and further requests that its unexpended funds be returned.
- **Section 1, Item 8(c)** states that "Notwithstanding any provision to the contrary, member financial dues charged to the State may be paid from the state highway fund." The DOT requests that this language be removed as it seems to imply that the DOT will be the only member paying dues. In addition, the DOT shall determine where it pays its dues from.
- **Section 1, Item 8(d)** of the bill does not specify what the member financial dues will be used for nor does it provide a process for determining the amount of the dues. The DOT recommends that the member financial dues be consistent with current practices and federal requirements from 23 CFR 450.308(b), which states, "Metropolitan transportation planning activities performed with funds provided under title 23 USC and title 49 USC Chapter 53 shall be documented in a unified planning work program (UPWP) or simplified statement of work in accordance with the provisions of this section and 23 CFR part 420."

The DOT acknowledges that the OahuMPO requires a certain level of autonomy to carry out the federal transportation planning process. However, due to OahuMPO's administrative assignment to DOT (the DOT has oversight responsibility to ensure OahuMPO is compliant with State statutes, Administrative Rules, and DOT policies) there are likely administrative assignment functions that conflict with the autonomy that OahuMPO requires. To address this DOT understands that an administrative agreement will be completed between DOT and the OahuMPO.

Thank you for the opportunity to provide testimony.

THE SENATE  
TWENTY-EIGHTH LEGISLATURE, 2015  
STATE OF HAWAII

S.B. NO. 1180  
S.D. 2

H D O T D R A F T

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# A BILL FOR AN ACT

RELATING TO METROPOLITAN PLANNING ORGANIZATIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER**

**METROPOLITAN PLANNING ORGANIZATIONS**

§ -1 **Statement of purpose.** The legislature finds that 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, and federal regulations adopted pursuant thereto, and other federal laws require that metropolitan planning organizations be designated based on a minimum population threshold as defined in federal law to act as a decision-making agency and to receive certain funds for the purpose of carrying out a continuing, cooperative, and comprehensive transportation planning process.

Metropolitan planning organizations have their own policy board and staff. It is the responsibility of the policy board to make decisions that are the result of the continuing, cooperative, and comprehensive transportation planning process, and the organization's staff support and provide technical resources to the policy board. The continuing, cooperative, and comprehensive planning process is designed to provide both orderly and reasoned metropolitan transportation planning within the framework of federal law, and adequate and informed representation from state and county governments, operators of public transportation receiving federal funds, the public at large, and others as identified in 23 Code of Federal Regulations section 450 subpart C.

§ -2 **Definitions.** For purposes of this chapter:

"Comprehensive agreement" means the executed agreement between the member jurisdictions or authorities of a metropolitan planning organization concerning the organization and structure of the metropolitan planning organization, the roles and responsibilities of its member jurisdictions or authorities, and the provision of funding and membership dues.

"Employees" means an executive director of a metropolitan planning organization, and all staff of a metropolitan planning organization.

"Member jurisdiction or authority" means a local or state jurisdiction or a local or regional authority that has entered into a comprehensive agreement to support the metropolitan planning process and that is provided representation on the metropolitan planning organization's policy board.

"Metropolitan planning organization" means a metropolitan planning organization designated or redesignated under 23 United States Code section 134, as amended.

"Policy board" means the policy decision-making body of a metropolitan planning organization.

"Transportation management area" means a transportation management area identified and designated pursuant to 23 United States Code section 134, as amended.

### **§ -3 Establishment of metropolitan planning organizations; duties.**

(a) Metropolitan planning organizations shall be designated pursuant to 23 United States Code section 134(d)(1) and shall meet all requirements of 23 United States Code sections 134-135 and 49 United States Code sections 5303-5304, as amended, and any federal regulations adopted pursuant thereto.

(b) A metropolitan planning organization shall:

(1) Operate according to executed comprehensive agreements, including any supplemental agreements, between the State, county, and other operators of public transportation receiving federal funds; and

(2) Facilitate and support the continuing, cooperative, and comprehensive transportation planning process between the State, county, and other operators of public transportation receiving federal funds, including the consideration of projects and strategies that support national planning factors as defined in 23 United States Code section 134, regional goals and objectives, and consideration of plans and planning activities of others as they affect transportation.

(c) A metropolitan planning organization may:

(1) Assign to staff members duties not defined or designated by federal law, this chapter, or executive agreement;

(2) Enter into agreements with the State, county, other operators of public transportation receiving federal funds, and other entities as needed to fully comply with all requirements of federal law and this chapter;

(3) Be placed within a state or county agency, as appropriate, for administrative purposes only;

(4) Contract to purchase goods and services, including professional and technical assistance and advice;

(5) Contract for or accept revenues, compensation, proceeds, and gifts or donations or grants in any form from any public agency; and

~~(6) Establish banking accounts with federally regulated financial institutions; and~~

(~~7~~6) Contract with other state or local agencies and quasi-public or private organizations for the use of their staff resources to assist the metropolitan planning organization in its functions.

**§ -4 Transportation management area metropolitan planning**

**organizations.** (a) Pursuant to 23 United States Code section 134(k), a metropolitan planning organization serving an urban area with a population of 200,000 or more shall be designated a transportation management area.

(b) Transportation management area metropolitan planning organizations shall be attached to the department of transportation for administrative purposes only. The respective policy boards, not the department of transportation, shall be responsible for the management of transportation management area metropolitan planning organizations as it pertains to 23 United States Code section 134-135 and 49 United States Code section 5303-5304. The various roles and responsibilities of transportation management area metropolitan planning organizations and the department of transportation regarding the administration of the transportation management area metropolitan planning organization may be further defined by agreement between the two entities.

(c) This chapter shall apply to transportation management area metropolitan planning organizations.

(d) Notwithstanding any law to the contrary, transportation management

area metropolitan planning organizations shall be exempt from section 26-35, except subsections (a)(7) and (8), and (b).

**§ -5 Transportation Management Area Metropolitan planning organization revolving funds.** (a) There is established in the state treasury for the department of transportation a ~~metropolitan planning organization revolving fund~~ to be known as the transportation management area metropolitan planning organization revolving fund which shall be administered by the director of transportation. ~~for each metropolitan planning organization~~ The transportation management area metropolitan planning organization revolving fund, in accordance with federal law, into which shall be deposited:

(1) Member financial dues

(~~1~~2) All revenues from the operations of the transportation management area ~~Oahu~~ metropolitan planning organization;

(~~2~~3) Appropriations by the legislature out of the state highway fund to the metropolitan planning organization revolving fund;

(~~3~~4) Federal funds or grants; and

(45) Gifts, grants, and any other moneys made available to the fund.

(b) Moneys in the transportation management area metropolitan planning organization revolving fund ~~for each metropolitan planning organization~~ shall be expended by the Oahu applicable Metropolitan Planning Organization for purposes of transportation planning in accordance with federal law. ~~provided that, notwithstanding any law to the contrary, the metropolitan planning organization for a particular county may expend moneys from their respective revolving fund without necessity of an appropriation; provided further that each metropolitan planning organization having a revolving fund shall report annually to the legislature no later than twenty days prior to the convening of each regular session starting with the regular session of 2016 on a detailed accounting of the activities of their respective revolving fund for the previous year.~~

**§ -6 Metropolitan planning organization policy boards; membership and meetings.** (a) Policy board membership shall be established by comprehensive agreement, including any applicable supplemental agreements and bylaws.

(b) As appropriate, any agreement or committee bylaws that establish policy board membership may also include specifications regarding ex-officio membership, terms and term limits of members, member alternates, quorum, and

other considerations as permitted by law.

**§ -7 Staff and funding.** (a) Each policy board shall appoint a full-time executive director of the metropolitan planning organization who shall be independent of state and county agencies, notwithstanding any law to the contrary. Duties of the executive director may be established by the policy board or in the comprehensive agreement.

(b) A policy board may employ staff as needed. The executive director shall be responsible for the hiring and management of staff. The executive director and staff for a metropolitan planning organization shall not be subject to chapter 76. All other benefits generally applicable to the officers and employees of the State shall apply to staff members of the metropolitan planning organization and be retroactive to the effective date of initial hiring for existing staff.

(c) All employees of a metropolitan planning organization shall be exempt from chapter 76 but shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

**§ -8 Member financial dues.** (a) The policy board shall identify ~~and establish, by interagency agreement,~~ the member financial dues necessary to sustain the metropolitan planning organization. The ~~annual~~ member financial dues ~~amount~~ shall be ~~reviewed at least every three years~~ provided by interagency agreement with the members.

~~(b) Member financial dues paid to a metropolitan planning organization by its member jurisdictions or authorities for purposes of matching federal aid financing shall not lapse or expire.~~

~~(c) Notwithstanding any provision to the contrary, member financial dues charged to the State may be paid from the state highway fund.~~

~~(d)~~ Member financial dues received by a metropolitan planning organization shall ~~not be specific to or intended to fund individual elements of any~~ the unified planning work program.

~~(e)~~ A policy board may allocate collective financial resources to fund a unified planning work program.

**§ -9 Meetings.** (a) Notwithstanding any law to the contrary, meetings of policy boards, advisory committees, or subcommittees shall be subject to sections 92-3 through 92-13.



(b) Members of a policy board shall be exempt from section 92-2.5.

(c) Members of a policy board who are also members of another state board may meet at a duly noticed meeting of a policy board.

(d) A majority of the membership of a policy board or committee of a policy board shall constitute a quorum to do business.

**§ -10 Conflict between laws.** If a conflict between any provision of this chapter and any federal law or regulation relating to metropolitan planning organizations arises, federal law or regulation shall govern."

SECTION 2. Section 279A-8, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§279A-8 [Oahu] Metropolitan [Planning Organization;]~~ planning organization; effect on funding.~~[+]~~ The provisions of this chapter do not affect the entitlement of the ~~[Metropolitan Planning Organization]~~ metropolitan planning organization for ~~[the island of Oahu]~~ any county to unconditionally receive and administer transportation planning funds pursuant to ~~[Section 112 of the Federal Aid Highway Act of 1973.]~~ 23 United States Code section 134, as amended."

SECTION 3. Chapter 279E, Hawaii Revised Statutes, is repealed.

SECTION 4. There is appropriated out of the state highway fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2015~~6~~-2016~~7~~ ~~and the same sum or so much thereof as may be necessary for fiscal year 2016-2017~~ to be deposited into the metropolitan planning organization revolving fund.

SECTION 5. There is appropriated out of the metropolitan planning organization revolving fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2015~~6~~-2016~~7~~ ~~and the same sum or so much thereof as may be necessary for fiscal year 2016-2017~~ for the purposes of this Act. The sums appropriated shall be expended by the department of transportation for the purposes of this Act.

SECTION 6. No officer or employee affected by this Act shall suffer any loss of employment, seniority, benefit, leave, service credit, or other emolument as a consequence of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 8. This Act shall take effect upon July 1, 2015 ~~its approval~~.

**Report Title:**

Metropolitan Planning Organizations

**Description:**

Creates a new chapter in HRS relating to metropolitan planning organizations.  
Repeals chapter 279E, HRS. Appropriates funds. Effective 7/1/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
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TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: House Committee on Transportation

From: Cheryl Kakazu Park, Director

Date: Marcy 25, 2015, 10:30 a.m.  
State Capitol, Conference Room 309

Re: Testimony on S.B. No. 1180, S.D. 2  
Relating to Metropolitan Planning Organizations

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Thank you for the opportunity to submit testimony on this bill, which would create a new chapter relating to metropolitan planning organizations. While we take no position on the policy questions being posed to the Legislature, the Office of Information Practices ("OIP") has worked with OMPO to prepare the attached technical amendments to the bill.

OIP takes no position on the substantive intent of section \_\_\_\_-9 of the bill to allow policy board members, who in many instances also serve as members of a county council or the Legislature, to discuss issues that may be policy board business in the context of their service as council members or legislators, and to discuss issues that may be council business in the context of their service as OMPO board members. However, OIP had technical concerns about the method chosen to do this in the bill as introduced, and is specifically concerned about proposed section \_\_\_\_-9, at bill page 10, lines 1-11, which would provide a partial exemption to the Sunshine Law, part I of chapter 92, HRS.

In its current form, bill section \_\_\_\_-9 had several technical problems. Subjecting a policy board to only limited provisions of the Sunshine Law, as

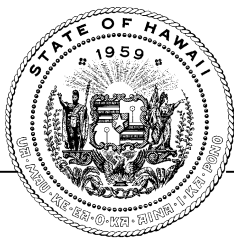
subsection (a) would do, would lead to problems of interpretation as the Sunshine Law's provisions are intended to work together – for instance, one eliminated provision includes the definitions of terms used elsewhere in the law. And section 92-2.5 is permissive, not restrictive – it allows board members to speak about board business outside a meeting in specified circumstances – so an exemption from it would have the effect of **limiting** board members to speaking about board business only at a meeting, **not broadening** their ability to speak together outside a meeting.

OIP has worked to assist OMPO in developing language that will better achieve OMPO's objective, and this proposed language, a copy of which is attached hereto, would not present technical problems. The problem OMPO seeks to address is that issues within a policy board's authority are typically also within the authority of another body to which a policy board member may belong, such as a county council or the Legislature. Thus, council members' discussion of such issues at policy board meetings could violate the Sunshine Law as a discussion of council business outside a council meeting; and council members' or legislators' discussion of such issues at a council meeting or in the course of legislative duties could violate the Sunshine Law as a discussion of policy board business outside a policy board meeting. Both OMPO's proposed alternatives would make clear that members of another Sunshine Law board (such as a county council) will not violate the Sunshine Law with respect to their service on that board when they discuss overlapping issues at a policy board meeting. OMPO's suggested alternative 1, the broader of the two, would allow less than a quorum of policy board members to discuss policy board business outside a meeting, which would cover county council members discussing the issues at a council meeting, legislators discussing the issues in a legislative caucus, or policy board members from different backgrounds

discussing the issues in any setting. The suggested alternative 2 is much more limited, as it would cover only discussions by sitting legislators outside a policy board meeting, and would also limit the number of legislators serving on a policy board.

**Because of the technical problems with section \_\_\_\_-9, OIP recommends that if this Committee wishes to provide policy boards with the ability to more freely discuss issues that are within the authority of the policy board and also of another body on which they serve, it should replace it with either of the proposed amendment alternatives OIP worked with OMPO on. If this Committee does not wish to provide policy boards with this special exception, it should delete the section. OIP takes no position on which the Legislature should do so as a policy matter.**

Thank you for the opportunity to testify.



# OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
ACTING DIRECTOR  
OFFICE OF PLANNING

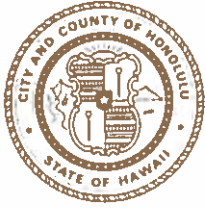
Statement of  
**LEO R. ASUNCION**  
Acting Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON TRANSPORTATION**  
Wednesday, March 25, 2015  
10:30 AM  
State Capitol, Conference Room 309

in consideration of  
**SB 1180 SD 2**  
**RELATING TO METROPOLITAN PLANNING ORGANIZATIONS.**

Chair Aquino, Vice Chair LoPresti, and Members of the House Committee on  
Transportation.

The Office of Planning strongly supports SB 1180 SD 2. This bill amends the Hawaii Revised Statutes to enact a new chapter and repeals and re-establishes the Metropolitan Planning Organization in order to ensure the appropriate authority complies with Federal laws. A joint certification review by the Oahu Metropolitan Planning Organization (MPO), Federal Highways Administration, and the Federal Transit Administration found that portions of the current Chapter 279E, Hawaii Revised Statutes, are in conflict with current Federal regulations. SB 1180 SD 2 seeks to remedy this. If the Oahu MPO is not in compliance by July 2015, the Oahu MPO faces decertification and the loss of significant Federal funds.

Thank you for the opportunity to testify.



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
HONOLULU, HAWAII 96813-3065  
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

**BRANDON ELEFANTE**

Councilmember District 8

Alea, Pearl City, Waipahu

Chair, Committee on Business, Economic Development and Tourism

Telephone: (808) 768-5008

Email: belefante@honolulu.gov

March 24, 2015

Representative Henry J.C. Aquino, Chair  
Representative Matthew S. LoPresti, Vice Chair,  
Committee on Transportation

Subject: Support for S.B. No. 1180 S.D. 2, Relating to Metropolitan Planning  
Organizations

Dear Chair Aquino, Vice Chair LoPresti and Members,

As an Oahu Metropolitan Planning Organization (OMPO) member representing the City & County of Honolulu, I am testifying in **support** of S.B. No. 1180 S.D. 2, Relating to Metropolitan Planning Organizations.

S.B. No. 1180 S.D. 2 allows OMPO to address the Federal corrective action plan and will allow OMPO to take the necessary steps to avoid the potential for Federal decertification. Decertification will ultimately result in no federally-funded projects being approved for the Overall Work Program, Oahu Regional Transportation Plan and Transportation Improvement Program.

As such, I humbly request the committee to pass S.B. No. 1180 S.D. 2. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brandon Elefante", is written over a horizontal line.

Brandon Elefante  
Councilmember, District 8  
City and County of Honolulu

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR



GEORGE I. ATTA, FAICP  
DIRECTOR

ARTHUR D. CHALLACOMBE  
DEPUTY DIRECTOR

March 25, 2015

The Honorable Henry J.C. Aquino, Chair  
and Members of the Committee on  
Transportation  
Hawaii House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members:

SUBJECT: Senate Bill No. 1180, SD2  
Relating to Metropolitan Planning Organizations

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 1180, SD2. The Bill would repeal Chapter 279E, Hawaii Revised Statutes (HRS), and create a new chapter with revised requirements for metropolitan planning organizations.

A 2014 joint certification review of the Oahu Metropolitan Planning Organization (OahuMPO), the Federal Highway Administration, and the Federal Transit Administration found that portions of HRS 279E conflict with Federal regulations. The new chapter of the HRS provides the OahuMPO with the authority to comply with Federal laws applicable to metropolitan planning organizations. If the OahuMPO is not in compliance by the established deadlines and is not certified, 20 percent of the apportionment attributed to the metropolitan planning area (approximately \$12 million in highway and transit funding) may be withheld.

Please move Senate Bill No. 1180, SD2, forward.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in blue ink that reads "George I. Atta".

George I. Atta, FAICP  
Director

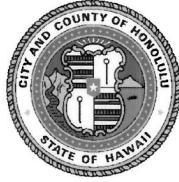
GIA:  
SB 1180 SD2-la



DEPARTMENT OF TRANSPORTATION SERVICES  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR  
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KIRK CALDWELL  
MAYOR



MICHAEL D. FORMBY  
DIRECTOR

MARK N. GARRITY, AICP  
DEPUTY DIRECTOR

March 24, 2015

The Honorable Henry J.C. Aquino, Chair  
and Members of the Committee on Transportation  
House of Representatives  
State Capitol, Room 309  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino and Members of the Committee:

SUBJECT: Testimony on Senate Bill No. 1180 SD2 (SSCR862) Relating to Metropolitan Planning Organizations (MPOs)

The Department of Transportation Services (DTS) wishes to reiterate its support for the passage of SB 1180 SD2 (SSCR862).

As a key participating agency in the OahuMPO, our department recently participated in the federal certification review of the OahuMPO. An important finding of the review (Oahu Metropolitan Planning Organization: TMA Certification Review, September 25, 2014 Final Report) was that the existing Hawaii Revised Statute (HRS) Chapter 279E related to Metropolitan Planning Organizations conflicts with current federal transportation regulations 23 U.S.C. 134 and 135 and 23 CFR 450. This conflict needs to be rectified in order for the OahuMPO to maintain its federal TMA (Transportation Management Area) certification.

The stated consequences of a de-certification of the OahuMPO would be a withholding of up to 20% of federal surface transportation funds normally attributable to Oahu. This has been calculated by FHWA (Federal Highway Administration) and FTA (Federal Transit Administration) to be about \$12 million annually.

The withholding of such federal funds would be detrimental to our department's funding of transportation studies, programs and projects. Both our roadway and transit funding would be significantly impacted.

I am therefore strongly encouraging that the subject bill be passed by this committee. Thank you for the opportunity to submit this written testimony on Senate Bill 1180 SD2.

Very truly yours,

  
Michael D. Formby  
Director



March 23, 2015

Honorable Representative Henry Aquino  
Hawaii State Capitol, Room 419  
415 South Beretania Street  
Honolulu, Hawaii 96813

Honorable Representative Matthew LoPresti  
Hawaii State Capitol, Room 328  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Aquino, Vice-Chair LoPresti, and Transportation Committee Members:

**Testimony Regarding Senate Bill 1180 SD2 Relating to Metropolitan Planning Organizations (MPOs)**

Senate Bill 1180 SD2 is necessary for the OahuMPO to maintain its federal certification as the metropolitan planning organization for Oahu, and I respectfully request your support of its passage with the following changes.

- Amend subsection -4(b) as follows:
  - “(b) Transportation management area metropolitan planning organizations shall be attached to the department of transportation for administrative purposes only. The respective policy boards, not the department of transportation, shall be responsible for the management of transportation management area metropolitan planning organizations as it pertains to 23 United States Code sections 134-135 and 49 United States Code section 5303-5304. The various roles and responsibilities of transportation management area metropolitan planning organizations and the department of transportation regarding the administration of the transportation management area metropolitan planning organization may be further defined by agreement between the two entities.”
- Amend subsection -5 as follows:
  - **“§-5 Transportation Management Area [Metropolitan] metropolitan planning organization revolving [funds]fund.**
    - “(a) There is established in the state treasury for the department of transportation a [metropolitan planning organization] revolving fund to be known as the transportation management area revolving fund which shall be administered by the director of transportation [for each metropolitan planning organization]. Into the transportation management area metropolitan planning organization revolving fund, [in accordance with federal law, into which] shall be deposited:
      - (1) Member financial dues;
      - (2) All revenues from the operations of the [Oahu] transportation management area metropolitan planning organization;
      - (3) Appropriations by the legislature to the fund;
      - (4) Federal funds or grants; and
      - (5) Gifts, grants, and any other moneys made available to the fund.
    - “(b) Moneys in the transportation management area metropolitan planning organization revolving fund [for each metropolitan planning organization] shall be expended by the [applicable] Oahu metropolitan planning organization for purposes of transportation planning in accordance with federal law, [; provided that, notwithstanding any law to the contrary, the metropolitan planning organization for a particular county may expend moneys from their respective revolving fund

**Oahu Metropolitan Planning Organization**

Ocean View Center / 707 Richards Street, Suite 200 / Honolulu, Hawaii 96813-4623  
Telephone (808) 587-2015 • (808) 768-4178 / Fax (808) 587-2018 / email: OahuMPO@OahuMPO.org

~~without necessity of an appropriation; provided further that each metropolitan planning organization having a revolving fund shall report annually to the legislature no later than twenty days prior to the convening of each regular session starting with the regular session of 2016 on a detailed accounting of the activities of their respective revolving fund for the previous year.]”~~

- Amend subsection -7 as follows:
  - “(a) Each policy board shall appoint a full-time executive director of the metropolitan planning organization who shall be independent of state and county agencies, notwithstanding any law to the contrary. Duties of the executive director may be established by the policy board in the comprehensive agreement.”
- Amend subsection -8 as follows:
  - “(a) The policy board shall identify ~~[and establish, by interagency agreement,]~~ the member financial dues necessary to sustain the metropolitan planning organization. The member financial dues shall be provided by interagency agreement with the members. ~~[The annual member financial dues shall be reviewed at least every three years.]~~
  - ~~[(b) Member financial dues paid to the metropolitan planning organization by its member jurisdictions or authorities for purposes of matching federal aid financing shall not lapse or expire.]~~
  - ~~[(c) Notwithstanding any provision to the contrary, member financial dues charged to the State may be paid from the state highway fund.]~~
  - ~~(b[d])~~ Member financial dues received by a metropolitan planning organization shall ~~[not]~~ be ~~[specified to or intended]~~ to fund the ~~[individual elements of any]~~ unified planning work program.
  - ~~(c[e])~~ A policy board may allocate collective financial resources to fund a unified planning work program.”
- Regarding SECTION 4 and SECTION 5:
  - The intended goal of OahuMPO is to continue the use of the self-replenishing revolving fund that has been used since 1975, but increase the level of funding to \$500,000. No other changes to the revolving fund are being sought.
- Amend SECTION 8 as follows:
  - “This Act shall take effect ~~[on July 1, 2050]~~ upon approval of the 2015 comprehensive agreement.”

I urge your support for SB 1180 SD2, as amended above, and approval of the bill as expeditiously as possible.

Sincerely,



Brian Gibson  
Executive Director

Testimony of Tom Dinell,  
Chairman of the Certification Action Review  
Committee (CRAC) of the  
OMPO Citizens Advisory Committee (CAC)  
in Support of an Amendment to S.B. No. 1180, SD2,  
Being Heard by  
the House Committee on Transportation  
on Tuesday March 25, 2015, at 10:30 am

The CAC supports bringing OMPO into compliance with the mandates specified in the Federal TMA Certification Review, dated September 26, 2014. S.B. 1180, SD2, is a necessary step in achieving that compliance. The problem with the bill as drafted, however, is that it basically ignores the Citizens Advisory Committee (CAC). Therefore, the CAC requests that section -6a of SB 1180 be amended by adding the following clause:

"...provided that the Citizens Advisory Committee of the Oahu MPO shall select one of its members to serve as a voting member of Oahu MPO Policy Board"

We come to the Legislature for assistance because the OMPO PIG has not recommended having the CAC as a voting member on the Policy Board.

The CAC takes it works as part of the OMPO process very seriously. Now we want the new Policy Board to take the CAC just as seriously as the CAC takes itself. The CAC desires to be an essential part of the review process, not just a nice add on so someone can claim that the community has been consulted. Frankly, the CAC is frustrated by being ignored by the current Policy Committee time and time again.

We note that the CAC is the one component of the OMPO that was not criticized in the Federal TMA Certification Review, but actually was praised as being an exemplary model of what a CAC should be. We also note that what the CAC is proposing is not a new or novel idea. 14% of the metropolitan transportation planning bodies have a

citizen voting member on their policy board.

The CAC urges that SB 1180, SD2, be amended as proposed above to assure that the CAC becomes an integral part of the Oahu Metropolitan Planning Organization planning process.

Thank you for considering the CAC's request.

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, March 24, 2015 8:56 AM  
To: TRNtestimony  
Cc: mjgolo@email.phoenix.edu  
Subject: Submitted testimony for SB1180 on Mar 25, 2015 10:30AM

**SB1180**

Submitted on: 3/24/2015

Testimony for TRN on Mar 25, 2015 10:30AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Comments Only	No

Comments: As a member of the Citizens Advisory Committee to Oahu Metropolitan Planning Organization, serving as Chair on two occasions and the current Vice Chair, I support the intent of SB1180 but ask that SB1180 be modified to include a member of the Citizens Advisory Committee (CAC) as a member of the Policy Committee. Reasons for including a CAC member are: 1. This is not a new idea. At least 14% of the Metropolitan Planning Organizations (MPO) have a citizen' representative as a voting member. 2. The CAC needs to be an essential part of the review process and not just a nice add on so someone can claim that the community as been consulted. 3. The Oahu CAC is the one component of the OahuMPO that was not criticized by Federal Transportation in their recent critical review of the OahuMPO. In fact the Oahu CAC was praised, as being an exemplary model of what a CAC should be. 4. A CAC voting member on the Policy Committee is not going to dominate and determine the decisions of that body, but will assure that the CAC voice is heard. 5. The CAC takes its work as part of the OMPO process very seriously. Now we want the Policy Committee to take the CAC just as seriously as the CAC takes itself. Thank you, for allowing me to express my views on this issue.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)